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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Joseph E James, Jr.,

10 Appellant,

11 v.

12 Russell Brown,

13 Appellee.
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No. CV-23-02464-PHX-JAT

ORDER

15 On December 6, 2023, the Court issued the following Order:

16 An appeal from a bankruptcy case has been filed with this Court. In
17 this appeal, at Doc. 1, page 4, the Bankruptcy Court issued a notice that
18 includes the following: "When the statement of issues, designation of record
19 and any designated transcripts are filed with the Bankruptcy Court, the
Bankruptcy Court Clerk will transmit to the District Court a certificate that
the record is complete." To date, the certificate that the record is complete
has not been received.

20 As the Appellant, it is Mr. James' obligation to prosecute this case.
21 See LRBankr 8020-1. Accordingly,

22 **IT IS ORDERED** that within 30 days of the date of this Order, Mr.
James shall either have caused the Clerk of the Bankruptcy Court to have
issued the certificate that the record is complete, or shall file a status report.

23 (Doc. 5).

24 As of today, the Court has not received the certificate that the record is complete
25 from the Bankruptcy Court, nor has Mr. James filed the required status report.

26 This Court may dismiss a case for failure to prosecute or failure to comply with a
27 Court order. See Fed. R. Civ. P. 41(b); See LRBankr 8020-1. In determining whether to
28 dismiss a case for lack of prosecution or failure to follow a Court order, the district court

1 is required to weigh several factors: “(1) the public’s interest in expeditious resolution of
2 litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the
3 defendants; (4) the public policy favoring disposition of cases on their merits and (5) the
4 availability of less drastic sanctions.” *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir.
5 1986).

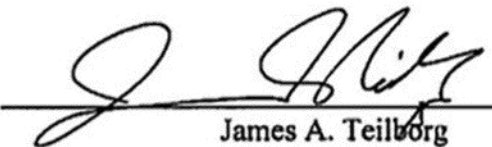
6 Here, the public interest and the Court’s need to manage its docket both favor
7 dismissal when an appellant seemingly has abandoned the appeal. The risk of prejudice to
8 appellee in the form of further delay in resolving the bankruptcy matter favors dismissal.
9 The public policy favoring decisions on the merits is neutral because the Bankruptcy Court
10 decided the merits of this issue, so only the right of appeal is impacted. Less drastic
11 measures have already been employed including the Bankruptcy Court telling Appellant
12 he must obtain a certificate that the record is complete, this Court telling Appellant the
13 same, and this Court warning Appellant that he has a duty to prosecute the case.
14 Accordingly, no factor weighs against dismissal of this appeal.

15 Therefore,

16 **IT IS ORDERED** that this appeal is dismissed. The Clerk of the Court shall enter
17 judgment pursuant to Federal Rule of Bankruptcy Procedure 8024(a).

18 Dated this 12th day of January, 2024.

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James A. Teilborg
Senior United States District Judge